

VZCZCXRO1302
RR RUEHDU RUEHJO RUEHMR
DE RUEHLG #0406/01 1311403

ZNR UUUUU ZZH
R 111403Z MAY 06
FM AMEMBASSY LILONGWE
TO RUEHC/SECSTATE WASHDC 2737
INFO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
RUEAIIA/CIA WASHDC
RUEATRS/DEPT OF TREASURY WASHDC 0445
RUEAWJA/DEPT OF JUSTICE WASHDC
RUEHLMC/MILLENNIUM CHALLENGE CORPORATION WASHDC

UNCLAS SECTION 01 OF 02 LILONGWE 000406

SIPDIS

SENSITIVE
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E.O. 12958: N/A
TAGS: PDEM KPAO PGOV KCOR MI
STATE FOR AF/S GABRIELLE MALLORY
STATE FOR INR/AA
USAID FOR AYANNA TOURE

SUBJECT: JOURNALISTS' ARRESTS POINT TO INCREASE IN POLITICALLY-MOTIVATED PROSECUTIONS

Ref: A) Lilongwe 390 B) Lilongwe 391 C) 05 Lilongwe 971

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¶1. (U) Summary: Three independent journalists were arrested in Lilongwe on May 8 and charged with criminal libel, for publishing a story that accused Malawi's attorney general of theft. The arrests are the latest in what appears to be a growing trend toward politically-motivated arrests and prosecutions. End Summary.

Independent Journalists Charged

¶2. (U) The editor of "The Chronicle" newspaper, Rob Jamieson, and two of his staff were arrested on May 8 and detained overnight before being released on bail by a magistrate in Lilongwe. All three were charged with criminal libel arising from a story published in the Chronicle on May 2 that implicated Attorney General Ralph Kasambara in the possession and attempted sale of a stolen laptop computer. The maximum penalty for criminal libel is a small fine, and the last successful prosecution was in 1970. The Chronicle is the most professional of Malawi's small independent newspapers, and the paper has often irritated government officials with its critical (and mostly accurate) coverage of the political scene. The Chronicle was recently barred by government press officers from covering the arrival ceremony of the visit of President Mugabe, presumably out of fear that the paper's coverage would be negative.

A Growing Trend of Political Arrests

¶3. (SBU) The arrests of the Chronicle journalists are the latest in an accelerating trend of what appear to be politically-motivated prosecutions of government opponents. Since the September 2005 arrest of former minister of agriculture Gwanda Chakuamba for insulting the president, a number of opposition figures, mostly from the United Democratic Front (UDF), have been arrested on a range of charges.

¶4. (U) Two UDF legislators who led the October 2005 parliamentary impeachment effort against President Mutharika were arrested in November for fraud and misrepresentation (Ref C), and the UDF national spokesman Sam Mpasu was arrested for corruption. Vice President Chilumpha was arrested on

corruption charges in December. In January, two UDF activists were arrested for treason for allegedly plotting the overthrow of government. The treason charges were thrown out, but the state filed sedition charges against one defendant who was later convicted. In March, UDF spokesman Sam Mpasu was again arrested, this time for trespassing, and a number of Muslim leaders sympathetic to Vice President Chilumpha were taken in on charges of unlawful assembly. In April, three senior UDF leaders were arrested for insulting the president. Most recently, Vice President Chilumpha and 13 others were arrested in connection with an alleged assassination plot against President Mutharika. Twelve of those have been released for lack of evidence (Ref A), and only Chilumpha and one other defendant remain in custody. The arrest and detention of most of Chilumpha's co-defendants coincided almost precisely with the four-day visit of President Robert Mugabe. (Ref B).

Comment

¶5. (SBU) The clear increase in the number of arrests of opposition figures in recent months is cause for concern. While government's actions have been legal in the strictest sense, the majority of these cases have resulted in dismissal or suspension by means of injunction. Many of those arrested have been charged under Banda-era laws such as criminal libel and the Protected Names, Flags and Emblems Act, which local legal scholars view as essentially unconstitutional under the current Constitution.

¶6. (SBU) The upsurge in arrests has caused some Malawians to fear a return to the arbitrary arrest and detention that has been a part of life for journalists and politicians for most of this country's post-independence history. Some of the pending cases may be genuine, but the failure to prosecute them in a timely manner reinforces the perception among Malawians that government is using the powers of arrest as a

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political tool. This risks eroding government's moral authority, and may lead Malawians to lose confidence in President Mutharika's fight against corruption.

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